

REMARKS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1 - 22 are pending in the application. Currently, all claims stand rejected.

By the present amendment, claims 1 and 8 have been amended.

In the office action mailed February 3, 2005, claims 1 - 22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,285,637 to Barcza or U.S. Patent No. 5,484,105 to Ausdenmoore.

The foregoing rejections are traversed by the instant response.

With regard to the rejection of claims 1 - 22 over Barcza on anticipation grounds, it is submitted that Barcza does not anticipate the subject matter of pending claims 1 - 22. Claim 1 has been amended herein to state that "said bridge bracket having a lower surface which has a center point and end tips and which lower surface has a first portion extending from said center portion to a first one of said end tips which diverges from said upper surface of said sealing element and a second portion extending from said center point to a second one of said end tips which

diverges from said upper surface of said sealing element."

It is submitted that the Barcza reference does not have a bridge bracket which has such a structure. What the Examiner has chosen to call a bridge bracket in Barcza is in actuality a seal restraint bar and its arms. In order for the seal restraint bar to perform its functions, the arms must converge towards an upper surface of the sealing element 20, not diverge. If the arms 43 and 44 were to diverge it would not be possible for the flaps to operate in the manner desired by Barcza.

Claims 2 - 7 are allowable for the same reason as claim 1 as well as on their own accord. For example, there is no disclosure in Barcza of creating the first and second slots called for in claims 2 and 3. There is also no disclosure in Barcza of shaping a bridge bracket as set forth in claim 5 to allow variable slot size depending on nozzle throat jet area. Claims 6 and 7 are allowable because there is no disclosure in Barcza of the gap sizes. Figure 2 does not show the claimed features because it does not show the nozzle throat surface area. Thus, the Examiner has no way of knowing whether the gaps are within the claimed ranges.

Claim 8 has been amended in a manner similar to claim 1 and thus is allowable for the same reasons.

Claims 9 - 11 are allowable for the same reasons as claim 8 as well as on their own accord. Claim 11 is allowable for the same reason as claim 4. The bridge bracket is not shaped to allow variable slot size, it is the sliders in Barcza which allows variable spacing between the flaps.

The rejection of claims 12 - 22 is flawed. First, in order for a reference to anticipate the subject matter of these claims, there must be a disclosure of the method steps in the reference. The Examiner has not pointed out the locations in the Barcza reference where the claimed method steps are described. Second, in order to have an inherency argument, the Examiner must provide technical reasoning which explains how the structure in the cited reference performs the claimed method. This the Examiner has not done. Third, using the Examiner's logic, it now follows that Barcza does not inherently teach or suggest the claimed subject matter since Barcza does not have the structure set forth in claims 1 - 11. Fourth, inherency can not be based on possibilities or probabilities. The Examiner argument that Barcza's ejector nozzle would be able to perform the recited method steps is at best a possibility or a probability. If the Examiner is going to maintain the rejection of claims 12 - 22, he is

respectfully requested to provide Applicant with technical reasons which establishes that the claimed method steps are inherent in Barcza taking into account that mere probabilities and possibilities are insufficient to make out a case of inherency.

With regard to the rejection of claims 1 - 22 over Ausdenmoore, it is well settled that for a reference to anticipate the subject matter of a claim, each and every limitation set forth in the claim must appear in the reference. The interpretation made by the Examiner on page 6 of the office action shows that Ausdenmoore does not contain each of the limitations of original claims 1 and 8. A sealing element having an upper surface which diverges from a lower surface of a bridge bracket does not anticipate a bridge bracket having a lower surface which diverges from an upper surface of a sealing element. It is not the same and it is not an equivalent. In any event, claims 1 and 8 as amended herein clearly define over the Ausdenmoore structure.

Claims 2 - 7 and 9 - 11 are allowable for the same reasons as their parent claims as well as on their own accord. The comments relating to these claims presented above are equally applicable here and are thus repeated by reference.

With regard to method claims 12 - 22, the same arguments as presented above are equally applicable here and are thus repeated by reference. Still further, using the Examiner's logic, since Ausdenmoore never anticipated the structure set forth in the claims, the claimed method is not inherent in Ausdenmoore. If the Examiner is going to maintain this rejection, he is respectfully requested to provide technical reasoning as to how the claimed method steps are inherent in Ausdenmoore taking into account that mere possibilities and probabilities are insufficient to establish an inherency case.

The Examiner's comments about U.S. Patent Nos. 5,839,663; 4,878,618; and 5,232,158 on page 9 of the office action are duly noted; however, it is not clear to Applicants whether the Examiner has rejected any claims over these references. In any event, it is submitted that the claims as amended and presented are allowable over these references for the same reasons that they are allowable over Barcza. Similarly, it is not clear whether the Examiner has rejected any claims over U.S. Patent No. 5,269,467 mentioned on page 9 of the office action. If the Examiner's comments are to be deemed a rejection, claims 1 - 22 are allowable over the '467 patent for the same reasons that they are allowable over Ausdenmoore.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, he is hereby invited to contact Applicants' attorney at the telephone number listed below.

No fee is believed to be due as a result of the instant response. Should the Director determine that a fee is due, he is hereby authorized to charge said fee to Deposit Account No. 21-0279.

Respectfully submitted,

Robert H. Bush et al.

By   
Barry L. Kelmachter  
Reg. No. 29, 999  
Attorney for Applicants

Tel: 203-777-6628 ext. 112  
Fax: 203-865-0297  
Email: [docket@bachlap.com](mailto:docket@bachlap.com)

Date: May 2, 2005

I, Barry L. Kelmachter, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on May 2, 2005.

